



*Celebrating 30 years of protecting
Kentucky's environment*

ENVIRONMENTAL QUALITY COMMISSION RESOLUTION ON ENVIRONMENTAL SPILLS AND INCIDENTS

Whereas, a number of major spills in Kentucky during the past few years, including the Oct., 2000 Martin County Coal Slurry spill (the largest slurry spill in the nation's history), have tested the state's ability to respond to emergency incidents and protect public safety and the environment. In addition, Kentucky and the nation now face new threats in the wake of the September 11 terrorist attack. In this light, the need to strengthen emergency response programs is more critical than ever, and

Whereas, In 2000, there were 2,986 environmental incident reports received in Kentucky through the 24-hour Environmental Emergency Hotline. Of these, 182 reports were classified as "emergency" or "high." The Ky. Environmental Response Team responded to 132 of these incidents. The other reports were referred to various divisions within the Department for Environmental Protection for investigation and action, and

Whereas, A spill or release must be reported immediately to the state's 24-hour Environmental Emergency Hotline as required by law. Notifications made by responsible parties has improved, according to officials with the Ky. Environmental Response Team. However, efforts are still needed to strengthen compliance with reporting requirements, and

Whereas, There are several federal and state statutes and regulations that contain provisions requiring emergency and contingency planning for industrial and commercial facilities. For example, 232 companies in Kentucky have prepared risk management plans to identify chemical hazards, maintain safe operating procedures, and minimize the consequences of air releases should they occur. Industrial and municipal facilities with water discharge permits (KPDES permits) are required to design best management plans to prevent and contain spills. Some 354 hazardous waste generators and treatment facilities are required to have contingency plans. Federal law also requires certain oil handling facilities to prepare plans in the event of a spill. However, EQC found no state emergency planning regulatory requirements for certain types of "high risk" facilities. For example, there are no contingency plan requirements for high hazard dams or coal impoundments in Kentucky, and

Whereas, Federal law requires Local Emergency Planning Committees to develop plans to respond to emergencies at some 1,500 facilities that handle extremely hazardous materials. Kentucky has 118 Local Emergency Planning Committees, organized at the county level, with Boone, Campbell and Kenton Counties comprising a regional committee. According to Ky. Emergency Response Commission officials, many of these plans have been in place for several years and could be improved by adding additional guidance such as where to stage the response, special alerting and warning procedures, specific protective action (e.g. evacuation or in-place shelter) and options for entry, and

Whereas, Several cities in Kentucky, including Louisville, Lexington, Ashland, London, Bowling Green, Paducah and Boone County have established hazardous material teams (hazmat teams) to respond to environmental emergencies. However, most Kentucky communities do not have specialized hazmat teams due to manpower and funding shortages. An estimated \$400,000 is needed to equip and train a hazmat team, and

Whereas, Training of local responders is critical to ensuring an effective response to emergencies. There are more than 40,000 local emergency responders in the state including fire, medical, law enforcement, public works and rescue personnel—22,351 of which are firefighters. Most firefighters in Kentucky—84 percent—are volunteer. There is a need to better coordinate and standardize hazardous materials training programs among various providers (Ky. Fire Commission, Ky. Emergency Response Commission and universities) to ensure that local responders are properly trained and can work together in a consistent and effective manner. Lack of funding has also hampered training of local responders, and

Whereas, Training exercises are an effective tool to refine and improve response to environmental incidents. Up to \$3,000 per county is offered annually by the Ky. Emergency Response Commission to test hazardous facility plans. However, few counties have taken advantage of this grant program, with an average of only 4 jurisdictions per year receiving grants for training exercises. Supplementing the state grant program to make it more flexible to fund other types of environmental emergency drills may encourage more exercises at the local level, and

Whereas, In the event of a major incident, the U.S. Environmental Protection Agency (EPA), under the National Contingency Plan, is responsible for coordinating response efforts among appropriate federal, state and local agencies and officials. The U.S. EPA was the lead coordinator at the Martin County coal slurry spill. The magnitude and the number of agencies involved made the management of the spill difficult, according to EPA officials. Currently, there is no plan in place between Kentucky and the U.S. EPA for managing or coordinating responses to catastrophic releases or spills, and

Whereas, The Ky. Hazardous Waste Management Fund is a principal source of funding for state emergency and cleanup actions in Kentucky. The fund is financed through a fee on hazardous waste generated in Kentucky. Each year, about \$2.1 million is collected from hazardous waste generators to fund emergency actions, site cleanups and pollution prevention activities. The fund also finances the 3 full-time staff of the Ky. Environmental Response Team and its operation at \$200,000 per year. The fee is set to sunset in April 2002.

Now be it resolved by the Environmental Quality Commission:

1. That the **Ky. Natural Resources and Environmental Protection Cabinet** conduct an assessment of its environmental incident response and prevention programs and consider the following actions to improve efforts.
 - Develop a formal process to critique response actions to environmental incidents.
 - Initiate a campaign to build awareness of reporting and emergency planning requirements for environmental releases.
 - Develop a coordinated state/federal contingency plan for catastrophic releases/spills in Kentucky.
 - Evaluate existing state regulatory spill prevention and contingency requirements (spill and risk management plans, best management practices and other spill containment/planning requirements) to determine if they are adequate to prevent and contain spills.
 - Identify high-risk facilities (ie. manure ponds, slurry ponds, dams, etc.) and conduct a review to assess safety and planning/prevention/response/containment needs.
 - Promulgate rules to require emergency action plans for all high hazard dams and impoundments.
 - Work with the U.S. EPA to evaluate and strengthen compliance with 40 CFR Section 12 which

- requires all oil handling facilities to have a Spill Prevention Control and Countermeasure Plan.
2. That the **Ky. Emergency Response Commission and the Ky. Division of Emergency Management** strengthen its programs to enhance emergency response and training to include:
 - Work with Local Emergency Planning Committees provide additional detail and tactical measures in hazardous facility plans in order to respond to emergencies in a safe and effective manner.
 - Seek state or federal funding to support and expand the use of environmental emergency drills and exercises.
 - Coordinate and standardize hazardous materials training materials and curriculum, pursuant to KRS 39:E010.
 - Work with various training providers to explore new opportunities and tools to promote low-cost/no-cost hazardous materials training for local responders (virtual classroom, web-site training, video conferences, regional training, etc.) and seek additional opportunities to enhance hazardous material training through drills, continuing education credit and refresher training opportunities.
 3. That **state and local emergency response agencies** work together to:
 - Explore opportunities to establish multi-county hazmat teams or options to “share” existing hazmat teams and or equipment (through county/city agreements) in various regions or high risk areas of the state.
 - Strengthen the communication and response network through the creation of a state/local workgroup (possibly as an Ad Hoc Committee to the Ky. Emergency Response Commission) to promote dialogue and improve communication between state and local responders, help critique local responses, and identify opportunities to improve environmental emergency response programs.
 - Create a centralized environmental emergency response Web site with appropriate links to various agencies to help build awareness about how to report an environmental emergency, state and local agency roles and responsibilities and share information.
 - Explore public/private sector partnerships for environmental emergency response and develop an inventory database of responders by location and equipment (both public and private sector) to help access expertise and facilitate a swift and effective response to environmental incidents.
 4. That the **Ky. Department for Local Government** approve education credits, pursuant to KRS 64.5275, for elected officials who participate in emergency response exercises to build leadership and promote awareness of local response roles and responsibilities.
 5. That **local governments** consider the following actions to improve spill response.
 - Strongly consider the adoption of an emergency spill ordinance to clarify local authority, strengthen response and enforcement actions at the local level, and to provide for the recovery of costs associated with local government response actions.
 - County emergency response management officials review all emergency notification plans to ensure that procedures are in place, are up-to-date, and are being used properly to notify the public in the event of an emergency.
 6. That the **Governor and the Legislature** support the above measures to enhance the training of local responders and improve environmental emergency response actions and also:
 - Reauthorize the Hazardous Waste Management Fund and its fee system or otherwise provide adequate funds to finance the Ky. Environmental Response Team, environmental emergency

response actions, abandoned contaminated site cleanup actions, and pollution prevention activities in Kentucky.

- Seek state and federal financial and technical support to assist Local Emergency Planning Committees expand their mission and emergency response planning activities from just facilities with “extremely hazardous substances” to include other high risk environmental hazards in their communities.

7. That this resolution be forwarded to Gov. Paul E. Patton and Secretary James E. Bickford for consideration and action.

Approved this 24th of January 2002 by members present and voting.

Respectfully submitted by the

Kentucky Environmental Quality Commission

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Betsy Bennett, Vice Chair

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signed

date